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IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION
BANKRUPTCY NO. 21-30107-CCGB
CHAPTER 7

LEGALIST DIP GP, LLC and PDG PRESTIGE, INC.)
(By and through Ronald Ingalls, Chapter 7)
Trustee),)
Plaintiffs,)
vs.)
MICHAEL DIXSON, Individually; MESILLA VALLEY)
VENTURES, LLC; MICHAEL DIXSON TRUST THROUGH ITS)
TRUSTEE MICHAEL J. DIXSON; CHRISTINA DIXSON;)
SOUTHWESTERN ABSTRACT & TITLE COMPANY, INC.;)
WEYCER KAPLAN PULASKI & ZUBER P.C.; ENTRADA)
DEVELOPMENT, LLC; THE GATEWAY VENTURES, LLC;)
LPC RETAIL, LLC, and FSLRO 510 SOUTH TELSHOR LAS)
CRUCES, LLC,)
Defendants.)

REMOTE VIDEOTAPED DEPOSITION OF BRIAN T. RICE
THURSDAY, NOVEMBER 21, 2024
10:32 AM (EST)

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3
4 REMOTE VIDEOTAPED DEPOSITION OF
5 BRIAN T. RICE, called as a witness by and on behalf
6 of Defendant Weycer, Kaplan, Pulaski & Zuber, P.C.,
7 pursuant to the applicable provisions of the
8 Federal Rules of Civil Procedure, before P. Jodi
9 Ohnemus (remotely), RPR, RMR, CRR, CA-CSR #13192,
10 NH-LSR #91, MA-CSR #123193, and Notary Public,
11 within and for the Commonwealth of Massachusetts,
12 at West Wareham, Massachusetts, on Thursday,
13 November 21, 2024, commencing at 10:32 a.m. (EST)
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25

1 APPEARANCES:

2
3
4 (Via Videoconference)

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24 For Defendant Weycer, Kaplan,

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14 (Via Videoconference)

15 MARTIN, LUTZ, ROGGOW

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22 For Michael Dixon, Michael Dixon

23 Trust, and Mesilla Valley.

24 Ventures

25
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1 APPEARANCES: (CONT'D)

2
3 ALSO PRESENT:

4 (Via Videoconference)

5 Richard M. Kaplan, Esq.

6 Jeff Carruth

7 Michael Dixon

8
9 Kevin Gallagher, Video Operator

I N D E X

TESTIMONY OF:

PAGE

BRIAN T. RICE

(By Mr. Culpepper)

9

(By Mr. Lutz)

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| 2 | EXHIBIT | DESCRIPTION | PAGE |
| 3 | | | |
| 4 | Exhibit 1 | email, 3/30/2022, 11:11 a.m. | 56 |
| 5 | Exhibit 1A | Notice of Plan redline | 58 |
| 6 | | (First Amended vs. Second | |
| 7 | | Amended) | |
| 8 | Exhibit 1B | Second Amended Plan of | 62 |
| 9 | | Reorganization of PDG | |
| 10 | | Prestige, Inc., dated March | |
| 11 | | 29, 2022 | |
| 12 | Exhibit 2 | email, 3/30/2022, 11:20 a.m. | 67 |
| 13 | Exhibit 3 | email, 4/12/2022, 5:38 p.m. | 70 |
| 14 | Exhibit 3A | Release of Lien Granted | 72 |
| 15 | | Pursuant to Bankruptcy Court | |
| 16 | | Order (and With Respect to | |
| 17 | | Lot 1A Only). | |
| 18 | Exhibit 4 | email, 4/13/2022, 1:43 p.m. | 73 |
| 19 | Exhibit 5 | email, 4/13/2022, 12:43 p.m. | 75 |
| 20 | Exhibit 5A | Purchase and Sale Agreement, | 76 |
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1 VIDEO OPERATOR: We are now going on the
2 record at approximately 10:32 a.m. Today's date is
3 November 21st, 2024. This is media unit No. 1 in
4 the recorded video deposition of Brian Rice, taken
5 in the matter of Legalist DIP, GP, LLC, et al,
6 filed in the US Bankruptcy Court, Western District
7 of Texas, El Paso Division. Bankruptcy case number
8 is 21-30107-CGB.

9 This deposition is being held via Zoom
10 technology remotely. My name is Kevin Gallagher.
11 I am the videographer. The court reporter is Jodi
12 Ohnemus. We're both from the firm of Veritext
13 Legal Solutions.

14 At this time the attorneys present in the
15 deposition will identify themselves and their
16 affiliations for the record.

17 MR. CULPEPPER: I'm Tom Culpepper. I
18 represent Weycer Kaplan, the defendant in this
19 case. And Riley Tunnell is here with me.

20 MR. CORBI: Richard Corbi from the law
21 offices of Richard J. Corbi, PLLC. I represent
22 Legalist in this matter.

23 MR. LUTZ: David Lutz. I represent
24 Michael Dixon, the Michael Dixon Trust, and the
25 Messila Valley Ventures LLC in this matter.

1 MR. INGALLS: I'm Ron Ingalls. I'm the
2 Chapter 7 trustee and also the attorney for the
3 trustee in this matter.

4 VIDEO OPERATOR: And now our court
5 reporter will swear or affirm the witness and we
6 can proceed.

7 BRIAN T. RICE, having
8 satisfactorily been identified by
9 the production of a driver's license,
10 and being first duly sworn by the Notary
11 Public, was examined and testified as
12 follows to interrogatories

13 BY MR. CULPEPPER:

14 Q. Mr. Rice, my name's Tom Culpepper, and as
15 you heard just a minute ago, I represent Weycer
16 Kaplan in a lawsuit that's been brought by
17 Legalist, as well as the bankruptcy trustee for PDG
18 Prestige. Are you aware of that?

19 A. Yes, sir. Good morning.

20 Q. All right. And have you ever done this
21 before, given a deposition?

22 A. No.

23 Q. All right. Are you a lawyer?

24 A. Yes.

25 Q. Are you familiar with the deposition

1 A. No.

2 Q. All right. What did you do after you
3 graduated?

4 A. I joined Brown Rudnick in Boston in their
5 restructuring and finance department.

6 Q. Would that have been in 2012?

7 A. Right.

8 Q. All right. And did you -- how long did
9 you work at Brown Rudnick?

10 A. Until 2019.

11 Q. For seven years?

12 A. Yes, sir.

13 Q. And did you always remain in the finance
14 and restructuring area?

15 A. I did.

16 Q. Okay. And were you an associate during
17 those seven years?

18 A. I was.

19 Q. Okay. And did you work in the bankruptcy
20 area of law?

21 A. I did.

22 Q. All right. And did you handle cases for
23 debtors? Creditors? Both?

24 A. Both, but principally creditors.

25 Q. Okay. Primarily creditors?

1 A. Yes, sir.

2 Q. All right. All right. And did your --
3 did your role change from 2020 moving forward to
4 today?

5 A. Yes, sir.

6 Q. Can you walk me through the changes in
7 your roles -- your role at Legalist since you began
8 work there?

9 A. At the end of 2021 I moved from chief
10 compliance officer to chief operating officer; and
11 at the end of 2022 I moved from investment counsel
12 to corporate counsel; and at the end of 2023 I
13 moved from corporate counsel to general counsel.
14 And so those are my two current titles, COO and GC.

15 Q. All right. Let me make sure I've got
16 that. So you currently are corporate counsel and
17 general counsel for Legalist?

18 A. Currently general counsel and chief
19 operating officer.

20 Q. Oh, and chief operating -- all right.
21 And you became chief operating officer at
22 the end of 2021?

23 A. Yes, sir.

24 Q. All right. What's the -- explain to me
25 what the difference is first in the -- the

1 corporate counsel to general counsel.

2 A. With corporate counsel I was principally
3 performing noninvestment-facing legal work for the
4 company. So everything related to the company as a
5 company as opposed to the investments that the
6 funds the company manages invest in. And as
7 general counsel I continued to perform that
8 function while managing a transactions counsel that
9 performs the investment-facing legal work for the
10 company.

11 Q. So you're -- I guess the corporate counsel
12 reports to you now?

13 A. Currently we don't have a corporate
14 counsel, but the transactions counsel reports to
15 me, yes, sir.

16 Q. Fair enough. All right.

17 And who would you report to as chief
18 operating officer?

19 A. I report to Eva Shang, S-h-a-n-g, who is
20 Legalist's chief executive officer.

21 Q. So Eva is her first name?

22 A. Yes, sir.

23 Q. All right. And -- and how old a person is
24 Eva Shang, roughly?

25 A. About 30.

1 A. They both live in San Francisco.

2 Q. All right. And -- and where do you
3 reside?

4 A. West Wareham, Plymouth County,
5 Massachusetts.

6 Q. And just so I -- give me an idea where --
7 is that near Boston? Or where is that?

8 A. It's about an hour south of Boston.

9 Q. All right. And Mr. Li you said works out
10 of Long Island, New York?

11 A. Yes.

12 Q. All right. Now, let's go back to -- to
13 PDG and your involvement there. You said -- you
14 previously told me you got involved after the
15 investment group had -- had approved the loan but
16 before it was approved by the bankruptcy court;
17 correct?

18 A. That's my memory, yes.

19 Q. All right. And what was your
20 understanding about what you were going to do and
21 handle as it related to the loan made to PDG?

22 A. My job was to negotiate the credit
23 agreement for the loan with the borrower and the
24 borrower's counsel.

25 Q. Anything else?

1 A. No.

2 Q. So you were there to negotiate the credit
3 agreement with the borrower and the borrower's
4 counsel?

5 A. Yes, sir.

6 Q. And did you do that?

7 A. I did.

8 Q. And when -- when you say -- refer to
9 credit agreement, are you referring to the loan
10 itself?

11 A. So the -- the economic and other terms of
12 the loan had already been agreed to in the term
13 sheet.

14 Q. Okay.

15 A. And so I was taking that and in essence
16 turning it into a loan agreement with the borrower.

17 Q. Okay. So you took the -- the term sheet
18 and negotiated it into a final loan agreement to be
19 executed by Legalist and the borrower?

20 A. Yes, sir.

21 Q. Okay. And who executed the loan agreement
22 on behalf of Legalist?

23 A. I would think it was our chief investment
24 officer.

25 Q. Okay. And who -- negotiated or -- excuse

1 me -- who executed the loan agreement on behalf of
2 PDG Prestige?

3 A. It must have been Mr. Dixon.

4 Q. And what did you understand Mr. Dixon's
5 role was?

6 A. Either CEO or sole member or -- he was in
7 charge of -- of the debtor, the borrower.

8 Q. Got it.

9 So your understanding was Mr. Dixon was
10 in control of PDG Prestige and -- and had the
11 ultimate say on what PD [verbatim] Prestige was
12 going to do?

13 A. I think I limited my, you know, concern
14 with his authority to sign the credit agreement,
15 which he had, on behalf of the borrower.

16 Q. Correct. And I understand. What -- all
17 I'm getting at is, was it -- was it your
18 understanding, though, that he was the ultimate
19 authority for PDG Prestige?

20 A. I think so. It -- yeah, to the extent I
21 -- I had any kind of thought on that at the time.
22 I never interacted with anyone besides Mr. Dixon.

23 Q. Okay. And that was going to be my next
24 question.

25 So your -- your interactions as it related

1 A. I don't believe there was a personal
2 guarantee.

3 Q. Okay. So it was a term loan secured by
4 all of PDG's assets?

5 A. Yes, sir.

6 Q. All right. And you believe it was for a
7 period of eight -- approximately 18 months?

8 A. Yes, sir.

9 Q. All right. And based on the -- on the
10 loan agreement, what was your understanding of what
11 Mr. Dixon was to do, if anything, with the money
12 from the loan?

13 A. There was a prepetition lender to be
14 repaid.

15 Q. Yes, sir.

16 A. And the balance was to be used to develop
17 the underlying collateral, the underlying land that
18 secured the loan.

19 Q. And can you describe for me what the
20 underlying land that secured the loan was?

21 A. These were two un-- unimproved parcels of
22 land that were going to be developed into
23 commercial real estate.

24 Q. Okay. And are they -- is it -- is it your
25 understanding that those parcels were referred to

1 as Lot 1A and lot 3A?

2 A. Yes, sir.

3 Q. Okay. And that was the security for the
4 loan, those lots?

5 A. All of the estate assets were security for
6 the loan --

7 Q. Fair enough.

8 A. -- including those two, yes.

9 Q. Which included those two lots?

10 A. Yes, sir.

11 Q. All right. And so your understanding was
12 the loan was used to pay off a debtor and then you
13 were to become the -- the debtor pursuant to your
14 loan agreement.

15 A. To pay off a creditor --

16 Q. A creditor?

17 A. -- then we would become the creditor.

18 Q. Good point. Said that earlier.

19 All right. And is it your understanding
20 that that part occurred; that it was used to pay
21 off a creditor?

22 A. Yes, sir.

23 Q. All right. All right. And the -- the
24 loan agreement gave you a security interest in Lot
25 1A and Lot 3A?

1 A. Yes, sir.

2 Q. Okay. And was that your job to protect
3 that security interest?

4 A. Once the -- once the loan agreement closed
5 and it was approved by the bankruptcy court, that
6 go-forward relationship with the borrower was run
7 by our investment team.

8 Q. Well, let me put it in a different way,
9 then: Was it Legalist's job to protect their
10 security interest?

11 A. Yes.

12 Q. Okay. And the only reason I'm asking is,
13 it wasn't Weycer Kaplan's job to protect Legalist's
14 security interest.

15 A. They were not our lawyers.

16 Q. Correct. They were the lawyers for PDG
17 Prestige, the debtor; correct?

18 A. They were.

19 Q. All right. And was the -- what -- were --
20 were the -- was there anything to your knowledge
21 in the loan agreement or anything that denoted who
22 was going to control the PDG bank account?

23 A. Not to my knowledge.

24 Q. Okay. So was it your understanding that
25 Mr. Dixson was in control of the PDG bank account

1 or accounts if there were more than one?

2 A. Yes.

3 Q. Now, you've previously told me about an
4 investment team that you mentioned previously.

5 Who were you referring to?

6 A. At that time the -- the DIP strategy was
7 run by a gentleman named Nate Jones, Nathan Jones,
8 who had the title head of DIP underwriting.

9 Q. Okay. And was there anybody else
10 involved?

11 A. He worked with Remy Cipriano --

12 Q. Can you spell that?

13 A. Ci -- C-i-p-r-i-a-n-o.

14 -- who -- at that time his title I believe
15 was underwriting coordinator. So he assisted Mr.
16 Jones with the initial underwriting and then the
17 monitoring of the investments on this strategy.

18 Q. Okay. All right. And so are Mr. Jones
19 and Mr. Cipriano still at Legalist?

20 A. Nate Jones is not. Remy Cipriano is.

21 Q. And what's Mr. Cipriano's title today?

22 A. I believe it's the same.

23 Q. Underwriter coordinator?

24 A. I believe so.

25 Q. All right. And do you know why Mr. Jones

1 counsel. When you refer to his counsel, are you
2 referring to Jeff Carruth at Weycer Kaplan?

3 A. Yes, sir.

4 Q. All right. Did you deal with anyone other
5 than Jeff Carruth at Weycer Kaplan?

6 A. I don't think so.

7 Q. All right. Is it your understanding that
8 -- that Mr. Jones and Mr. Cipriano had
9 conversations with Jeff Carruth? Or do you know
10 one way or the other?

11 A. It's possible. Mr. Jones was an attorney.
12 But I suspect they would have -- I would have been
13 involved in those.

14 Q. Okay. So at least as you sit here today,
15 your understanding is you were the person at
16 Legalist who was dealing with Jeff Carruth at
17 Weycer Kaplan?

18 A. Yes, sir.

19 Q. All right. Is it your understanding that
20 Mr. Jones and Mr. Cipriano were dealing with Mr.
21 Dixson?

22 A. They were dealing with Mr. Dixson, yes.

23 Q. All right. And is it your understanding
24 that they were having conversations with Mr.
25 Dixson?

1 that conversation being about?

2 A. It would either have been about the plan
3 or about Lot 1A. I don't think I spoke to either
4 of them myself other than those two events after
5 the credit agreement was signed.

6 Q. Okay. And tell me, though -- and I
7 understand as you sit here today you don't recall
8 specifically whether -- you don't recall
9 specifically what your conversation was with Mr.
10 Dixson and Mr. Carruth; you just believe it was one
11 of those topics?

12 A. I'm not sure whether I spoke to them about
13 the plan. I know I spoke with them about -- I know
14 I spoke with them about Lot 1A.

15 Q. Okay. And what time did you speak to them
16 about Lot 1A?

17 A. That would have been -- my memory is that
18 we -- roughly -- we closed the loan agreement in
19 the spring of '21. The plan confirmation was in
20 the summer; and that the Lot 1A discussions were
21 closer to year end of '21.

22 Q. Okay. And -- and tell me what you recall
23 about your conversation with Mr. Dixson and Mr.
24 Carruth about Lot 1A at the end of 2021.

25 A. They had reached out to the investment

1 team regarding their plan to sell Lot 1A and
2 reinvest the proceeds in the remaining -- the
3 remaining parcel of land, 3A.

4 So I spoke with -- and I recall this was a
5 phone call -- I spoke with Mr. Carruth and Mr.
6 Dixson on the -- the lien release they would need
7 by Legalist to effect the sale of Lot 1A.

8 Q. Okay. And did you speak to them on one
9 occasion or more than one occasion?

10 A. I think I only had one phone call with
11 them --

12 Q. Okay.

13 A. -- on 1A.

14 Q. And what can you tell me about that phone
15 call? What do you remember? Tell me what was
16 said.

17 A. So we had had -- our -- Legalist had had
18 discussions with either Mr. Dixson or Mr. Dixson
19 and Mr. Carruth about their plan to liquidate 1A
20 and use the proceeds to develop 3A.

21 In connection with that, there was legal
22 paperwork that needed to be signed, specifically
23 the lien release. And so after we spoke -- I spoke
24 internally with the investment team, I spoke to Mr.
25 Carruth and Mr. Dixson to get the specifics on what

1 they needed us to sign, where to deliver it,
2 etcetera.

3 Q. Okay. I think I -- I gotcha.

4 So your -- your memory is -- and when
5 you're talking about the team, are you talking
6 about Mr. Jones and Mr. -- Mr. -- Caprian-
7 [verbatim] -- make sure I pronounce his name right?
8 What was it again, Mr....

9 A. Cipriano, yes, sir.

10 Q. Cipriano. I was going to say Capriano
11 [verbatim]. I apologize.

12 When you say somebody spoke to the
13 investment team, are you referring to Mr. Jones and
14 Mr. Cipriano when you --

15 A. Yes, sir.

16 Q. Okay. So your understanding is prior to
17 the lien -- the lien was ultimately released;
18 correct?

19 A. Yes, sir.

20 Q. Okay. And your understanding is you spoke
21 with Mr. Jones? Mr. Cipriano? Or both?

22 A. I would think both.

23 Q. Okay.

24 A. I don't remember the specific discussion,
25 but I -- I would guess I spoke with both of them

1 about it.

2 Q. Okay. So you spoke to you believe both
3 Mr. Jones and Mr. Cipriano about the need to
4 release a lien; true?

5 A. Yes, sir.

6 Q. All right. And is it a fair description
7 that your understanding was that Mr. Dixon had
8 spoken to them -- at least Mr. Dixon, I'm not --
9 we'll get into the specifics -- had spoken to Mr.
10 Jones, Mr. Cipriano, and/or both about what his
11 intentions were with Lot 1A and needing a release
12 of lien?

13 A. Yes, sir.

14 Q. All right. You were not party to those
15 discussions?

16 A. No, sir.

17 Q. All right. All right. Do you know
18 whether Mr. Jones and/or Mr. Cipriano or both
19 discussed the plans related to Lot 1A solely with
20 Mr. Dixon or with -- with Mr. Dixon and Mr.
21 Carruth? Do you know one way or the other?

22 A. I don't know; no, sir.

23 Q. All right. Fair enough.

24 Can you tell me did they contact you to
25 fill you in on their discussion with Mr. Dixon

1 about the need for a release of lien?

2 A. I believe Mr. Carruth reached out to me --

3 Q. Okay.

4 A. -- and after getting his email, I went
5 back and discussed it with our team to get up to
6 speed, in essence.

7 Q. Okay. Okay. And we'll walk through
8 those. I just want to get your understanding
9 first.

10 So your understanding is Mr. Carruth sent
11 you some emails related to a release of lien. And
12 was it -- was it fair to say that when you got that
13 you weren't -- you weren't in the loop at that
14 point? You had to go get in the loop and talk to
15 Mr. Jones and Mr. Cipriano?

16 A. Yes, sir.

17 Q. Okay. So you received an email from Mr.
18 Carruth about a release of lien and you then
19 proceeded to discuss that with Mr. Cipriano and Mr.
20 Jones.

21 A. Yes, sir.

22 Q. And what do you recall Mr. Jones and Mr.
23 Cipriano telling you in your conversation?

24 A. They had discussed with Mr. Dixon
25 liquidating Lot 1A --

1 Q. Okay.

2 A. -- and reinvesting the proceeds into Lot

3 3A. And that was something we were willing to

4 consent to. And so that was the -- kind of the

5 background, if you will, to going ahead and -- and

6 speaking with or emailing or both with Mr. Carruth

7 and I believe Mr. Dixon about procedurally the

8 paperwork they needed to effect that lien release.

9 Q. Okay. Understood. So anything else you
10 recall about your conversations with Mr. Jones and
11 Mr. Cipriano other than Mr. Dixon wanted to sell
12 Lot 1A and put the proceeds into Lot 3A?

13 A. I don't think so, no.

14 Q. Okay. All right. And so you're -- is it
15 -- is it a fair statement that your role at that
16 point, then, was to put in place a release of lien
17 so that could take place?

18 A. Yes, sir.

19 Q. All right. And, in fact, that's what you
20 did; correct?

21 A. Yes, sir.

22 Q. And you did -- you did -- your -- your
23 job, which was to effectuate the paperwork to
24 release the lien, based on your conversations with
25 Mr. Jones and Mr. Cipriano?

1 A. Yes, sir.

2 Q. All right. And there was no restrictions
3 on the release of the lien.

4 A. Unless there were restrictions in the
5 paperwork itself, no --

6 Q. Okay. Were you aware of --

7 A. -- I don't think so.

8 Q. -- any restrictions in the paperwork
9 itself?

10 A. No. I haven't -- I haven't looked at the
11 lien release in some time, but I -- I don't believe
12 there were.

13 Q. All right. So your understanding, at
14 least, is, based on those discussions, you
15 effectuated the release of the lien. And there
16 wasn't any written contractual agreement with Mr.
17 Dixson requiring him to use the funds from the sale
18 of Lot 1A in any particular way?

19 A. Well, the credit agreement was still in
20 place, which, you know, had limitations around
21 what --

22 Q. Yeah.

23 A. -- money could be spent on, but the lien
24 release itself did nothing except release the lien.

25 Q. That's all I'm getting at. And I

1 understand there was a credit agreement. Whatever
2 the credit agreement required it required. But you
3 didn't do anything -- and no one asked you to do
4 anything additionally to effectuate an agreement
5 about the understanding you had based on your
6 conversations with Mr. Jones and Mr. Cipriano.

7 A. No. I just released the lien.

8 Q. Okay. And that's all I'm getting at. You
9 weren't asking and you didn't ask to put something
10 together in writing that was going to bind Mr.
11 Dixson in some way to ensure that he used the
12 proceeds as you understood he was going to based on
13 your conversations with Mr. Jones and Cipriano.

14 A. I did not.

15 Q. Okay. Have you seen people do that in --
16 in your experience?

17 MR. CORBI: Objection as to form.

18 A. In connection with a lien release?

19 Q. Yes, sir. Have -- you know, got a formal
20 written agreement about how the proceeds would be
21 utilized.

22 A. I don't think I've done that myself, no,
23 sir.

24 Q. And I understand you may not have done it,
25 but are you aware of that practice?

1 A. No, sir.

2 Q. Okay. You've never seen anybody do that?

3 MR. CORBI: Objection. He's already
4 answered it.

5 A. No, sir.

6 Q. Okay. All right. All right.

7 So is it fair to say that you put --
8 released the lien. And was it your expectation, as
9 an officer for Legalist, that Lot 1A would be sold;
10 is that fair?

11 A. We released it expecting it would be sold,
12 yes, sir --

13 Q. Okay. And --

14 A. -- or we released it to allow it to be
15 sold, yes, sir.

16 Q. Correct. Understood. And your
17 understanding was the proceeds were going to be put
18 into Lot 3A.

19 A. Yes, sir.

20 Q. Okay. And is it your understanding we
21 wouldn't be here today if the proceeds would have
22 gone into Lot 3A?

23 A. I understand they were not invested in 3A;
24 correct.

25 Q. All right. But your expectation was that

1 conversations with Mr. Carruth -- let's start with
2 him -- after the sale took place and the funds went
3 into the PDG account?

4 A. I don't think so, no.

5 Q. Okay. Did you have any conversations with
6 Mr. Dixon, to your knowledge, after the -- the
7 sale of Lot 1A and the -- the funds were put into
8 the PDG account?

9 A. I don't think so.

10 Q. All right. Let's look at a few exhibits.

11 MR. CULPEPPER: Start with Exhibit 1.

12 MR. CORBI: Are you uploading these in the
13 chat box?

14 MR. TUNNELL: I'll email them afterwards.
15 These are -- this is still from -- from y'all's
16 production. It is mostly stuff from y'all's
17 production.

18 MR. CORBI: I know, but I'm just -- I
19 understand that. Is it going to be -- are you
20 going to share the screen or put it in the chat
21 box?

22 MR. TUNNELL: Share the screen.

23 MR. CORBI: Okay. Thank you.

24 (Exhibit 1, email, 3/30/2022, 11:11 a.m.)

25 Q. All right. I'm showing you what we've

1 marked as Exhibit No. 1.

2 MR. CULPEPPER: Is there any way to get
3 that thing off there? Okay.

4 Q. And, you know, I'll represent to you it's
5 an email from Jeff Carruth to you dated March 30th,
6 2022, at 11:11 a.m. And he's sending you two
7 attachments.

8 See that?

9 A. Yes, sir.

10 Q. All right. And one appears to be a
11 "Notice of Plan Redline"; and the second seems to
12 be a "Second Amended Chapter 11 plan."

13 Do you see that?

14 A. Yes, sir.

15 Q. All right. Do you recall receiving this
16 email?

17 A. I don't recall, but I don't have any
18 reason to think I didn't.

19 Q. Okay. And -- and just so you're aware,
20 the -- the document -- it doesn't have any Bates
21 labels on it. They were produced to us without
22 Bates labels. But this is a document that your
23 counsel or Legalist counsel provided to us. So you
24 don't have any reason to believe this wasn't sent
25 to you at that time.

1 you were involved in the negotiation of the plan
2 agreement. Were you making changes and suggesting
3 changes to this plan of reorganization to Jeff
4 Carruth?

5 A. I may have.

6 Q. Okay. Let me put it to you this way: Is
7 it your understanding Mr. Carruth was sending you
8 redline changes and then a -- another document that
9 we'll look at in a minute, the -- the amended plan
10 -- because you were reviewing -- you were reviewing
11 it and offering your suggestions?

12 A. I'm not sure whether I reviewed this
13 myself or sent it to the investment team, but he
14 was certainly sending it to Legalist for Legalist's
15 input, yes, sir.

16 Q. Okay. That's all I'm getting at. He's
17 sending it to Legalist. And you're the person he's
18 dealing with at Legalist; correct?

19 A. Yes, sir.

20 Q. All right. As it relates to this plan of
21 reorganization, he's sending it to you for your
22 input to -- to get your approval of the plan;
23 correct?

24 A. He's soliciting my client's input, yes,
25 sir.

1 A. I'm not sure whether we gave him comments
2 on the plan or were just told the changes that were
3 being made because of the other creditors'
4 objection. I'm not sure.

5 Q. Okay. Fair enough. All right.

6 MR. CULPEPPER: And go ahead and go to
7 page 18. This top -- the other.

8 Should be there, according to mine.
9 Paragraph 10.

10 MR. TUNNELL: Yeah. Right there.

11 Q. Okay. Is it -- you were -- or Legalist, I
12 guess, was aware that there was an effective date
13 obviously for the plan, correct? Was going to be
14 an effective date?

15 A. Yes, sir. I see it in section 11.

16 Q. All right. And -- and the plan was going
17 to allow PDG to sell Lot 1A and Lot 3A after --
18 pursuant to the -- to the plan?

19 And I'm referring to the portion in blue
20 under paragraph 10 of Exhibit 1A.

21 A. Yeah. This says that they can sell 1A and
22 3A in compliance with the code. That's how I'm
23 reading the second paragraph of section 10.

24 Q. Okay. So Legalist understood that the --
25 the plan that was being presented by Mr. Carruth on

1 behalf of his client, PDG, was going to allow PDG
2 to sell Lot 1A or Lot 3A free and clear without
3 notice to creditors and without the necessity of
4 bankruptcy approval; correct?

5 MR. CORBI: Objection as to -- objection
6 as to form.

7 A. I'm not sure I know that. I -- I -- it
8 looks like the whole thing is qualified "without
9 contradiction of any portion of the code." So if
10 the code required it, they couldn't do it. If the
11 code didn't require it, then they could.

12 Q. Well, in any event, you were aware of
13 paragraph 10 and you had -- Legalist didn't have
14 any objection to paragraph 10 which allowed the
15 lots to be sold?

16 A. I don't believe we objected to this draft
17 language; no, sir.

18 Q. Okay. And we'll look at Exhibit 1B. It's
19 the second amended plan.

20 (Exhibit 1B, Second Amended Plan of
21 Reorganization of PDG Prestige, Inc.,
22 Dated March 29, 2022.)

23 Q. There it is. So now the redlines are
24 taken out and this is the second amended plan. If
25 you look at it, go back to the same -- I think it's

1 let's go on to Exhibit 3.

2 (Exhibit 3, email, 4/12/2022, 5:38 p.m.)

3 Q. And Exhibit 3 again I'll represent to you
4 is an email chain that you produced or your -- your
5 counsel produced to us between you and Jeff
6 Carruth.

7 Do you see that?

8 A. Yes, sir.

9 Q. All right. And on this email Mr. Carruth
10 sends an email to you, he copies Zach Campbell at
11 Legalist and Mr. Dixon and Jasmine Esnayder;
12 correct?

13 A. Yes, sir.

14 Q. And who's Zach Campbell?

15 A. He's one of the investment managers at
16 Legalist. He -- I believe he originated the -- the
17 investment.

18 Q. Okay. So your -- your understanding is
19 he's the one who originated the investment with
20 PDG?

21 A. Yes, sir.

22 Q. All right. All right. So in this email
23 he sends you a copy of proposed form of partial
24 release for the sale of Lot 1A; correct?

25 A. I believe so, yes, sir.

1 Q. All right. And based on the testimony
2 you've previously given, is this the email where
3 you went to Mr. Jones and Mr. Cipriano to confirm
4 or to find out why this was coming to you?

5 A. It may have been, or they may have -- this
6 may have been a subsequent -- a subsequent email,
7 but it's -- it's certainly that -- certainly that
8 set of -- set of events we were talking about, yes,
9 sir.

10 Q. Okay. And I -- just so I'm clear, the
11 only email that I've seen that were produced by
12 y'all that -- where he enclosed the release is
13 this.

14 And are you aware of another email?

15 A. I don't think so. I'm just not 100
16 percent sure that, you know, this date, April 12th,
17 was before rather than right after I had that
18 conversation.

19 Q. Oh.

20 A. I don't have any reason to think it is.
21 I'm just not 100 percent certain how everything
22 stacked up day to day in that part of time -- in
23 that period of time.

24 Q. Understood. Okay. And I'm with you. I
25 understand what you're saying.

1 So in any event, either prior to this or
2 right after this is when you had your conversations
3 with Mr. Jones and Mr. -- is it -- it is Capriano,
4 isn't it? -- or Cipriano?

5 A. Cipriano, yes, sir.

6 Q. I'm sorry. So either -- prior -- just
7 prior to this or after this is when you believe you
8 had your conversations with Jones and Cipriano that
9 you previously told me about?

10 A. Yes, sir.

11 Q. Okay. All right. All right. So -- and
12 do you recall receiving an email enclosed --
13 attaching the partial release?

14 A. I do, yes. I remember this email.

15 Q. All right. And I'll go ahead and show you
16 3A, which is a copy of the release.

17 (Exhibit 3A, Release of Lien Granted
18 Pursuant to Bankruptcy Court Order (and
19 With Respect to Lot 1A Only).)

20 Q. All right. And 3A is a copy of the
21 release, do you recall -- proposed release.

22 Do you recall seeing that?

23 A. Yes. I don't have any reason to think
24 this isn't the version I'm thinking of, yes, sir.

25 Q. All right. And he enclosed also I guess a

1 FedEx address for you to ship it to?

2 Did you see that in -- it was on the
3 attachments to Exhibit 3? It would have been the
4 second attachment.

5 A. Yes, sir.

6 Q. Okay. And did you execute that release
7 and send it on?

8 A. I did.

9 Q. All right. And you were executing that
10 release based on your understanding that the
11 proceeds were going to be used to -- or put into
12 Lot 3A; correct?

13 A. Yes, sir.

14 Q. Okay. All right.

15 MR. CULPEPPER: So let's go to Exhibit 4.

16 Q. And it's, again, just a continuation of
17 this email chain between you and Mr. Carruth.

18 (Exhibit 4, email, 4/13/2022, 1:43 p.m.)

19 Q. And after -- if you just look at the
20 bottom -- Exhibit 4 again is a continuation of the
21 email chain -- do you recall receiving these
22 emails?

23 A. (Witness reviews document.) Yes, I -- I
24 don't know whether I saw it prepping for this
25 deposition -- you know, as part of the documents

1 that were pulled for this deposition or I'm
2 remembering it from back then, but I know this
3 chain. Yes, sir.

4 Q. Okay. Fair enough. All right.

5 So Exhibit 4, after he sent you the
6 release on April 12th, 2022, you sent him an email
7 -- and "you" being -- you sent an email that same
8 day to Jeff Carruth and copied Michael Dixson and
9 Zach Campbell; correct?

10 A. The next day, yes, sir.

11 Q. All right. And it says -- you asked "When
12 is the closing?"; correct?

13 A. Yes, on the 12th.

14 Q. All right. And Mr. Carruth responded the
15 next day, saying "Trying to close as soon as
16 Friday"; correct?

17 A. Yes, sir.

18 Q. And then you asked for a copy of the "P&S
19 for 1A," meaning the purchase and sale agreement?

20 A. Yes, sir.

21 Q. Okay. And so you wanted to see it and
22 review it?

23 A. I am guessing that was something our
24 investment team wanted to see. And I was, you
25 know, the attorney requesting it. But, yes, that's

1 what we asked for.

2 Q. All right. And that same day -- we're
3 going to go on to the next exhibit, Exhibit 5.

4 (Exhibit 5, email, 4/13/2022, 12:43 p.m..)

5 Q. Exhibit 5 is a continuation of that email
6 chain between you and Mr. Carruth and you -- where
7 you requested Purchase and Sale Agreement for Lot
8 1A. And that same day he sent you, on April 13th,
9 2022, an executed purchase-sale agreement; correct?

10 A. Yes, sir.

11 Q. All right. And did you review -- or your
12 team or -- did Legalist review the document that
13 they requested?

14 A. I don't have any reason to think we
15 didn't.

16 Q. Okay. Did you send any emails with any
17 concerns related to the sale agreement to your
18 knowledge?

19 A. Not to my knowledge, no, sir.

20 Q. Okay. Did you, on behalf of Legalist,
21 raise any questions or concerns as it related to
22 the Purchase and Sale Agreement that was sent to
23 you on April 13th, 2022?

24 A. Not to my knowledge, no.

25 Q. All right. So let's look at that

1 document, the purchase and sale that was sent to
2 you. It is Exhibit 5A. It's the attachment.

3 (Exhibit 5A, Purchase and Sale Agreement,
4 March 2022.)

5 Q. Specifically do you recall what you did
6 with Exhibit 5A when you received it from Jeff
7 Carruth on April 13th, 2022?

8 A. No, sir.

9 Q. Okay. Did you provide it to the
10 investment team or to anyone else at Legalist?

11 A. I'm sure I did, but I -- I don't remember
12 specifically doing it or who -- who I gave it to.

13 Q. Okay. Did you have any conversations with
14 Mr. Carruth about the Purchase and Sale Agreement
15 which is Exhibit 5A?

16 A. Not that I remember; no, sir.

17 Q. Did you have any conversations with anyone
18 at Legalist about the Purchase and Sale Agreement?

19 A. I'm sure I did, but none that I
20 specifically remember; no, sir.

21 Q. Okay. And who do you believe those
22 conversations would have been with?

23 A. Some members of the investment team we've
24 been talking about.

25 Q. Okay. And you see that the -- the name on

1 A. I'm not sure about that. We were
2 certainly concerned about that issue, but I don't
3 know if I can say what all would not have concerned
4 us.

5 Q. Well, then, let me put it this way, then:
6 Was there -- do you recall any discussion or
7 anything being raised about the fact that Mesilla
8 Valley was the seller --

9 MR. CORBI: Objection to form.

10 Q. -- for the Purchase and Sale Agreement?

11 A. Not that I remember; no, sir.

12 Q. Okay. All right. All right. Let's
13 continue through the chain. Let's go to Exhibit 6.
14 Again, it's just a continuation of that chain.

15 (Exhibit 6, email, 4/13/2022, 3:52 p.m..)

16 Q. All right. So after -- Exhibit 6 again is
17 just a continuation on April 13th, 2022, of the
18 email communications you had with Jeff Carruth
19 where Mr. Dixon and Mr. Campbell were copied.

20 Do you see that?

21 A. Yes, sir.

22 Q. All right. So if you go to -- after you
23 asked for the -- the Purchase and Sale Agreement
24 for the sale of Lot 1A and were provided it, you
25 sent a -- an email -- again, dated April 13, 2022,

1 where you said you were going to go get a notary
2 and FedEx the release; correct?

3 A. Yes, sir.

4 Q. And then you -- you ask when can you
5 expect the \$2.34 million paydown "...or is there a
6 holdback for other claimants?"

7 Do you see that?

8 A. Yes, sir.

9 Q. All right. And Mr. Carruth responded to
10 your email again that same day on April 13 with the
11 same folks copied, carbon copied, and he said (as
12 read):

13 "Mike and other Legalist folks have been
14 working on the use of proceeds, separately from
15 me."

16 Did I read that correctly?

17 A. Yes, sir.

18 Q. All right. And did -- did you consult
19 with Mr. Cipriano and Mr. Jones and -- and confirm
20 that Mr. Dixon had been discussing how the
21 proceeds were going to be used specifically?

22 A. I must have because in my email I was
23 asking about a repayment rather than a
24 reinvestment. So this must have been around when I
25 spoke with them about the common-play use of

1 proceeds.

2 Q. Okay. And so do you believe you confirmed
3 what Mr. Carruth said in the first sentence of --
4 of this email from Mr. Carruth to you?

5 A. Yes.

6 Q. Okay. And do you believe that you
7 confirmed that email -- the first sentence of that
8 email with the two gentlemen I just mentioned, Mr.
9 Jones and Mr. Cipriano?

10 A. Regarding reinvestment of the 1.8? I do
11 remember that discussion, yes, sir.

12 Q. Okay. Did you confirm that with anyone
13 else about how -- what Mr. Dixon was telling
14 Legalist about the use of the proceeds?

15 A. No. No. I mean, my -- you know, I was --
16 I was looking for confirmation that we at Legalist
17 wanted me to execute the lien release. So that
18 would have been the extent of the discussion before
19 going off and doing that.

20 Q. Okay.

21 A. It would have been either this date or the
22 next day, I think.

23 Q. Okay. And then Mr. Carruth goes on and
24 said (as read):

25 "The basic concept, though, is to use net

1 proceeds to pay claims (including yours truly) and
2 use the remaining net (around 1.8) to complete
3 development."

4 Did I read that correctly?

5 A. Yes, sir.

6 Q. And did you understand that Mr. Carruth
7 was giving you his understanding of how the funds
8 were going to be utilized?

9 A. Yes, sir.

10 Q. All right. And when he said "pay claims,
11 (including yours truly)," you understood that he
12 was saying that the proceeds were to be used to pay
13 the Weycer Kaplan firm in part?

14 A. Yes, sir.

15 Q. All right. And then the last sentence
16 says (as read):

17 "There is a take-out of Legalist waiting
18 in the wings for this to close, and Mike has sent
19 those terms."

20 Did you confirm that -- that Mike had sent
21 terms and -- to someone at Legalist?

22 A. I'm not sure I did then. I -- I know
23 there were active discussions about a refinancing,
24 though, at that time.

25 Q. Okay. So is it fair to say your

1 understanding was that Mr. Carruth was -- in giving
2 you his understanding -- was -- that -- that -- on
3 that last sentence -- that there was going to be a
4 refinance and that money would be used to take out
5 Legalist?

6 A. We were expecting a refinancing, yes, sir.

7 Q. Okay. And you're -- I think you -- you've
8 testified that you understood that Mr. Dixon was
9 having conversations with people at Legalist about
10 the terms of that refinancing and taking out of
11 Legalist?

12 MR. CORBI: Object as to form.

13 A. I remember -- I remember hearing about
14 those discussions, yes, sir.

15 Q. Okay. So Mr. Carruth's email was
16 consistent with what you understood from Mr. Jones
17 and Mr. Cipriano based on their conversations with
18 Mr. Dixon?

19 A. I believe so, yes.

20 Q. Okay. All right.

21 And, again, I guess, just to confirm:
22 After receiving this email, Exhibit 6, did you have
23 conversations right after then you believe with Mr.
24 Jones or Mr. Cipriano or both?

25 A. Right before or right after. Certainly

1 that time frame. But it could have been one or the
2 other and not both.

3 Q. Got it.

4 And do you believe your conversations were
5 with both of those gentlemen?

6 A. I think so, yes. I usually spoke to them
7 together.

8 Q. Okay. And did you have any conversations
9 with anyone else at Legalist, to your knowledge,
10 related to these -- these series of email chains
11 and release of the lien?

12 A. Not that I remember.

13 Q. Okay. All right. So based on your
14 understanding, after having spoken with Mr. Jones
15 and Mr. Cipriano, you agreed to release the lien
16 and did release the lien?

17 A. Yes, sir. I sent the FedEx myself.

18 Q. Okay. And that would be Exhibit 7, I
19 believe, and that's again just a continuation of
20 the -- of the chain.

21 (Exhibit 7, email, 4/14/2022, 12:00 p.m.)

22 Q. And Exhibit 7 is that your email to Jeff,
23 copying Zach Campbell, Michael Dixson, and Jasmine
24 Esnayder, confirming you had sent the release of
25 lien?

1 A. Yes, sir.

2 Q. Okay. And that was done the following day
3 after you'd received the emails from Mr. Carruth on
4 the 13th -- April 13th, 2022?

5 A. Yes, sir.

6 Q. Okay. So it -- is it fair to say, then,
7 everything, as far as you understood, went as
8 planned. It's -- the only thing that didn't occur
9 as planned is that your contention is, is that Mr.
10 Dixson and/or PDG utilized the funds for purposes
11 other than the completion of the development of Lot
12 3A?

13 MR. CORBI: Objection as to form. Also,
14 you're asking for a legal analysis.

15 A. Our contention is that he did not use them
16 to complete development, yes, sir.

17 Q. Okay. I mean, I -- what I'm getting at
18 is, that -- that's your understanding of -- of what
19 didn't occur based on your communications related
20 to the sale of Lot 1A.

21 A. I don't think I had any communication
22 subsequent to actually sending the release. So...

23 Q. Yeah, that's what I'm getting at. I guess
24 let me ask it a different way. I'm -- I can
25 rephrase it.

1 DEPONENT'S ERRATA SHEET
2 AND SIGNATURE INSTRUCTIONS
3

4 A review the transcript was not
5 requested.

6 The original of the Errata Sheet has
7 been delivered to Richard Corbi, Esq.

8 When the Errata Sheet has been
9 completed by the deponent and signed, a copy
10 thereof should be delivered to each party of record
11 and the ORIGINAL delivered to Thomas Culpepper,
12 Esq., to whom the original deposition transcript
13 was delivered.
14

15
16 INSTRUCTIONS TO DEPONENT
17

18 After reading this volume of your
19 deposition, indicate any corrections or changes to
20 your testimony and the reasons therefor on the
Errata Sheet supplied to you and sign it. DO NOT
make marks or notations on the transcript volume
itself.
21
22
23


24 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE
25 COMPLETED AND SIGNED ERRATA SHEET WHEN RECEIVED.

1 Commonwealth of Massachusetts
2 Middlesex, ss.
3
4

5 I, P. Jodi Ohnemus, Notary Public
6 in and for the Commonwealth of Massachusetts,
7 do hereby certify that there came before me
8 (remotely) on the 21st day of November, 2024, the
9 deponent herein, who was duly sworn by me; that the
10 ensuing examination upon oath of the said deponent
11 was reported stenographically by me and transcribed
12 into typewriting under my direction and control;
13 and that the within transcript is a true record of
14 the questions asked and answers given at said
15 deposition.

16 I FURTHER CERTIFY that I am neither
17 attorney nor counsel for, nor related to or
18 employed by any of the parties to the action
19 in which this deposition is taken; and, further,
20 that I am not a relative or employee of any
21 attorney or financially interested in the outcome
22 of the action.
23
24
25

IN WITNESS WHEREOF I have hereunto set my
hand and affixed my seal of office this
9th day of December, 2024, at Waltham.



P. Jodi Ohnemus, RPR, RMR, CRR,
CSR, Notary Public,
Commonwealth of Massachusetts
My Commission Expires:
3/3/2028

ATTACH TO DEPOSITION OF: BRIAN T. RICE
CASE: LEGALIST vs. DIXSON, ET AL.

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your deposition, note any change or correction to your testimony and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required). Refer to page 92 of the transcript for errata sheet distribution instructions.

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I have read the foregoing transcript of my deposition and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

BRIAN T. RICE

Subscribed and sworn to before me
this _____ day of _____, 2024.

Notary Public
My Commission Expires:

1 Rcorbi@corbilaw.com

2 December 9, 2024

3 Legalist DIP GP, LLC, Et Al. v. Dixon, Michael, Et Al.

4 DEPOSITION OF: Brian T. Rice (# 7014725)

5 The above-referenced witness transcript is
6 available for read and sign.

7 Within the applicable timeframe, the witness
8 should read the testimony to verify its accuracy. If
9 there are any changes, the witness should note those
10 on the attached Errata Sheet.

11 The witness should sign and notarize the
12 attached Errata pages and return to Veritext at
13 errata-tx@veritext.com.

14 According to applicable rules or agreements, if
15 the witness fails to do so within the time allotted,
16 a certified copy of the transcript may be used as if
17 signed.

18 Yours,

19 Veritext Legal Solutions
20
21
22
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25